

**Town of Sunset Beach  
Monthly Council  
Work Session, Public Hearing(s) and Regular Meeting  
September 5, 2017**

**MINUTES**

**Members Present:** Mayor Robert Forrester, Mayor Pro-Tem Carol Scott, Councilman Peter Larkin, Councilman Mark Benton, Councilman John Corbett and Councilman Rich Cerrato

**Members absent:** None

**Attorney & Staff Present:** Susan Parker, Town Administrator; Dustin Graham, Public Works Director; Ken Klamar, Police Chief; Hiram Marziano, Planning Director; Cindi Stephenson, Administrative Assistant; and Lisa Anglin, Town Clerk

Mayor Forrester called the Meeting to order at 6:15 pm.

**Closed Session**

MAYOR PRO-TEM SCOTT MADE A MOTION TO GO INTO CLOSED SESSION TO CONSULT WITH THE TOWN ATTORNEY CONCERNING PENDING LITIGATION CONCERNING THE PROPERTY LOCATED ON THE WEST END OF THE ISLAND AND TO SEEK LEGAL ADVICE CONCERNING THE BB1 ZONING DISTRICT PROPOSED TEXT AMENDMENT. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

COUNCILMAN BENTON MADE A MOTION TO RETURN TO OPEN SESSION AND RECONVENE THE MEETING. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

The Council met in Closed Session for approximately thirty minutes. No action taken.

**Work Session**

Mayor Forrester called for agenda amendments and general discussions by the Council.

**Hurricane Irma** - Mayor Forrester encouraged the audience to finalized their preparations in advance of the storm and to obtain hurricane re-entry passes from Town Hall.

**Land Use Plan** - The Council reached a consensus to schedule a Special Meeting on Thursday, October 12, 2017 at 9:00 A.M. for the final review of the CAMA Land Use Plan.

**David Rouzer Meeting** - Mayor Pro-Tem Scott advised that she attended the August 24, 2017 Mayors Meeting with David Rouzer and voiced disappointment that he is in favor of offshore drilling exploration.

**Beach Patrol** – Councilman Corbett advised that the Beach Patrol staff has done a great job this year controlling the strand patrons and enforcing the Town regulations.

### **Approval of the Draft Agenda**

The Council reviewed the agenda and made the following amendments:

- Removed Agenda Item 2 - Public Hearing for the UDO Amendment for Article 14 Minimum Housing/Unsafe Building
- Removed Agenda Item 8b - Discussion of Ordinance Amendment for Article 14 Minimum Housing/Unsafe Building
- Added Agenda Item 8e - Stormwater Management Plan Motion

MAYOR PRO-TEM SCOTT MADE A MOTION TO APPROVE THE AGENDA AS AMENDED. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

### **Monthly Meeting**

The Meeting convened at 7:00 pm and the Pledge of Allegiance was recited by those in attendance.

### **Presentation – Shoreline Management and Pre-Dredging Analysis Update**

Robert Neil, Moffatt & Nichol Consultant, provided a Shoreline Management and Pre-Dredging Project update and revised construction costs estimate. Neil advised that the agencies have requested three (3) separate permit submittals as follows:

- One permit to include Mary's and Turtle Creek,
- One permit to include the feeder channel, finger canals and the bay area,
- One permit for Jinks Creek (North and South).

Neil advised that the National Marine Fisheries Service (NMFS) stated that they supported the project and understand the navigational need through North Jinks Creek. However, they indicated some type of, preferably on-site, minimization/mitigation would be required. Neil advised that the NC Division of Marine Fisheries (DMF) stated that they did not see a reason the permit would be denied but expressed concern over the potential impacts to shellfish (oyster).

Neil advised that the Mary's and Turtle Creek, the feeder channel, finger canals and the bay area Environmental Documentation including the Essential Fish Habitat Assessment, Biological Assessment, Cultural Resource Review and the CAMA Permit Application should be completed by November 1<sup>st</sup> noting that a placement area for the dredge material must be included. Neil advised that the Material Placement Site Identification includes obtaining authorization from the property owner, potentially a survey to show existing conditions and storage capacity, potentially a sediment analysis to show existing material within the material placement site is non-compatible noting existing data may be available from the property owner or US Army Corps of Engineers (USACE) to fulfill the survey and Geotech requirements. Neil advised if South Jinks Creek is included in the permit application, a placement area for the beach compatible material will be required as part of the permit package.

Neil advised that the two (2) material placement sites identified in the project are the USACE spoil islands 310 and 311. USACE manages the sites; however, they are privately owned by Big Pine Holdings LLC. A tentative meeting with the property owner is scheduled for early September to begin negotiations for use.

**Presentation – Shoreline Management and Pre-Dredging Analysis Update (Cont.)**

Concerning the beach compatible material, Neil advised that Town Officials and Staff met with Ocean Isle Beach (OIB) officials on July 24<sup>th</sup>. All parties were receptive to placing material on Ocean Isle Beach; however, a cost share agreement seemed unlikely. The Town Council will need to submit a formal request including a cost estimate for the beach material placement to the Ocean Isle Beach Town Council for consideration. OIB officials expressed support for the project and appreciated the update. They also stated that they would ask for monitoring measures to help verify the project does not impact their shoreline.

Neil reviewed the revised construction costs estimate of \$3,663,848 which includes two (2) mobilizations to construct the project over multiple dredge seasons, over-dredge tolerances and a \$5 per cubic yard tipping fee. Neil reviewed the estimated project budget of \$4,168,990 which includes \$120,000 for monitoring noting the State cost share agreement is \$2,779,327 and the Town share is \$1,389,663.

**Minutes for Approval Consideration**

COUNCILMAN CERRATO MADE A MOTION TO APPROVE THE AUGUST 7, 2017 AND AUGUST 15, 2017 REGULAR MEETING MINUTES AS PRESENTED. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Public Comments on Agenda Items Only**

Karen Joseph 915 Sandpiper Bay Drive – Encouraged the Council to hold a positive conversation concerning the Town Park regulations, uses and fee schedule.

**Town Administrator Report**

Susan Parker, Town Administrator, advised that Staff is preparing the Town for the pending landfall of Hurricane Irma.

**Departmental Reports**

Police – Chief Klamar advised that the person suspected of slashing tires in the area was apprehended by our officers and is now incarcerated.

Public Works – Dustin Graham, Public Works Department Director, advised that Staff is preparing for Hurricane Irma by removing the beach strand items, pole banners and the restroom units from the island.

Planning & Inspections - Hiram Marziano, Planning Director, advised that the department is preparing for Hurricane Irma.

Fire and Finance Departments – No verbal reports given.

**Old Business**

**Discussion Concerning Chapter 99 Park Rules, Uses and Fee Schedule**

Councilman Larkin and Mayor Pro-Tem Scott stated that each Council member's suggested amendments should be incorporated into an edited version of Chapter 99 and the fee schedule in order for Council consideration. Councilman Cerrato and Councilman Corbett exchanged words concerning the public perception that the Council is considering prohibiting the Farmers Market from using the Park.

**Old Business (Cont.)**

**Discussion Concerning Chapter 99 Park Rules, Uses and Fee Schedule (Cont.)**

Councilman Corbett and Councilman Cerrato exchanged words concerning Councilman Cerrato and Councilman Benton's perception that Councilman Corbett should be recused from the discussions due to his wife's involvement as one of the Market organizers, despite Attorney Richardson's opinion that a conflict of interest does not exist for Councilman Corbett as long as the discussion is not limited to the Farmers Market use of the Park.

Attorney Richardson assured the Council that if a conflict of interest exists that he would advise the person and the Council that the person needs to request and be granted a recusal.

COUNCILMAN CERRATO MADE A MOTION TO SCHEDULE A WORK SESSION FOR COUNCIL TO RECEIVE CITIZEN INPUT ON PARK USAGE. MAYOR FORRESTER CALLED FOR A VOTE. COUNCILMAN CERRATO AND COUNCILMAN BENTON VOTED YES. COUNCILMAN LARKIN, MAYOR PRO-TEM SCOTT AND COUNCILMAN CORBETT VOTED NO. THE MOTION FAILED.

The majority of the Council agreed that citizen input has been received and that a special meeting is not needed.

COUNCILMAN CERRATO MADE A MOTION FOR STAFF TO MEET WITH THE SUNSET BEACH BUSINESS AND MERCHANTS ASSOCIATION TO DETERMINE THE STATUS OF THE ASSOCIATION AND IF THEY WANT TO MANAGE THE FARMERS MARKET AND OTHER EVENTS IN THE TOWN PARK. MAYOR FORRESTER CALLED FOR A VOTE. COUNCILMAN CERRATO VOTED YES. COUNCILMAN BENTON, COUNCILMAN LARKIN, MAYOR PRO-TEM SCOTT AND COUNCILMAN CORBETT VOTED NO. THE MOTION FAILED.

Mayor Forrester requested Attorney Richardson to provide the Council with the answers to the Council questions submitted during the August 15, 2017 Meeting.

Attorney Richardson advised that the Council can not restrict public access to the Town Park.

Attorney Richardson advised that the Town can charge a resident a different amount to use the Park than a non-resident but the non-resident charge can not be more than two (2) times that of a resident's, example if the resident is charge \$1 then the non-resident can't be charged more than \$2.

Attorney Richardson advised that the Town can charge differently for non-profit, for-profit and charity organizations but in his opinion the Town should not due to the subjective method of determining legal status of the organization.

Attorney Richardson advised that the Town can limit the number of events, the types of events, the event hours and can charge a different amount based on the number of attendees planned for an event.

Attorney Richardson suggested including wording in the policy and on the application concerning family oriented events and a disclosure that the Town reserves the right to deny an event or close an event if it is deemed to be in violation of Town Park rules.

**Old Business (Cont.)**

Discussion Concerning Chapter 99 Park Rules, Uses and Fee Schedule (Cont.)

The Council briefly discussed the Fee Schedule.

Mayor Pro-Tem Scott suggested that herself and Councilman Larkin work together to produce an edited version of Chapter 99 and the Fee Schedule for Council consideration during the October 2, 2017 Meeting.

Discussion and Possible Adoption Concerning Proposed UDO Amendments for Article 1, 2 and 7 Building Codes, Regulations & Standards

COUNCILMAN BENTON MADE A MOTION TO ADOPT THE UDO AMENDMENTS FOR ARTICLE 1, ARTICLE 2 AND ARTICLE 7 AS PRESENTED. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Consideration of Adoption of Main Street Sidewalk Budget Amendment

COUNCILMAN BENTON MADE A MOTION TO ADOPT THE MAIN STREET SIDEWALK BUDGET AMENDMENT. MAYOR FORRESTER CALLED FOR A VOTE. COUNCILMAN BENTON, COUNCILMAN CERRATO, COUNCILMAN CORBETT AND COUNCILMAN LARKIN VOTED YES. MAYOR PRO-TEM SCOTT VOTED NO. THE MOTION CARRIED BY MAJORITY VOTE.

Stormwater Management Plan Motion

COUNCILMAN CERRATO MADE A MOTION FOR STAFF TO WORK WITH THE NC COASTAL FEDERATION FOR FREE RECOMMENDATIONS CONCERNING THE ADOPTED STORMWATER MANAGEMENT PLAN. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**New Business**

Consideration of Approval of ABC Board Letter Concerning Travel Policy

COUNCILMAN CERRATO MADE A MOTION TO APPROVE THE ABC BOARD LETTER CONCERNING THE TRAVEL POLICY. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Discussion Concerning Conflict of Interest Policy

Councilman Cerrato reviewed the Conflict of Interest memo and sample policy provided for Council consideration. Mayor Forrester advised that the sample policy provided by Councilman Cerrato applies to State employees and State elected officials and therefore can't be adopted by the Council as a municipal elected official's policy. Staff will research and provide Municipal elected official Conflict of Interest Policies for Council consideration.

Review upcoming Agenda Items and Identify New Agenda Items for September 19, 2017 Meeting

The Council reviewed the Disposition of Directives and made the following amendments:

- Moved to the September 19, 2017 Agenda:
  - Consideration of Action to Formally Reduce the ABC Board Membership to three (3)
  - Consideration of Re-Appointment for the ABC Board Term Expiration of November 2017 or Authorization for Town Clerk to Advertise Position

Review upcoming Agenda Items and Identify New Agenda Items for September 19, 2017 Meeting (Cont.)

- Consideration of Re-Appointment for the two (2) Planning Board Term Expirations or Authorization for Town Clerk to Advertise the two (2) Positions Added the Town Park
- Added to the October 2, 2017 Agenda - Chapter 99 Park Rules, Uses and Fee Schedule
- Added to the Directives list without an Agenda date - Adoption Consideration of a Conflict of Interest Policy

**Public Comments**

Carol Santavicca 9109 Forest Drive – Reminded the Council members that they are elected to vote for the people and that they have an obligation, by State law, to vote.

Karen Joseph 915 Sandpiper Bay Drive – Voiced disappointment that the Council was unable to hold a positive conversation concerning the Town Park rules, uses and fee schedule; reminded the Council that Sunset at Sunset will not be permitted in the Town Park if the uses are amended as the Council is suggesting because its funded through sponsorships and booth rentals.

Jan Harris 206 North Shore Drive – Reminded the Council members that they are all Town residents that want only the best for the Town and encouraged the Council to learn the definition of collaboration.

**Adjournment**

COUNCILMAN BENTON MADE A MOTION TO ADJOURN THE SEPTEMBER 5, 2017 COUNCIL MEETING. MAYOR FORRESTER CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Town of Sunset Beach**

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**Robert Forrester, Mayor**

Submitted by:

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Lisa Anglin, Town Clerk